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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,314	02/14/2001	Robert Buckingham	PA-159-A	2443

7590

01/13/2003

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EXAMINER

PADEN, CAROLYN A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 01/13/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Applicant(s) 09/782,314	Applicant(s) BUCKINGHAM ET AL.
	Examiner Carolyn A Paden	Art Unit 1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 2-12, 14-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giglio.

The rejections have been modified in response to applicants arguments in Paper 3. Giglio discloses a process for packaging coffee. The abstract indicates that the packaged coffee is ground and formed into a flexible or semi-rigid container that is preliminarily filled with gas. The apparatus at figure 1 further shows the overall process stations. At column 3, lines 7-10 the concept of introducing nitrogen or carbon dioxide into the process is shown. The concept of processing beans, rather than ground coffee, is shown at column 2, lines 38-39. The claims appear to differ from the reference in the recitation that the coffee is ground directly into the container. Goglio delivers the coffee to the container with minimal delay (see figure 1 and column 2, lines 61-67). Duct 4, in Goglio, appears to connect the grinding station with the packaging station. It would have been obvious to one of ordinary skill in the art to directly grind the coffee of

Goglio into a packaging contain in order to minimize the loss of volatiles in the coffee product. Although Goglio does not expressly teach the short distance between the grind and packaging of the product, it would have been obvious to provide for such a design, especially with confronted with the facts about the loss of flavor in the product. The fact that the reference did not show this work place design is not alone seen to constitute unobviousness because the high cost of remodeling food process operations.

Claims 7-12 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goglio as applied to claims 2-5 above, and further in view of Hibi.

The claims appear to differ from the reference in the additional step of roasting the coffee beans. Hibi teaches roasting beans prior to grinding or packaging them (see column 1, lines 10-37). Hibi also teaches that quick cooling of the roasted beans in nitrogen or other inert gas acts to maintain flavor in the beans (column 18, lines 26-29). Although the reference does not show a processing model with the roaster in direct contact with the packaging unit, it would have been obvious to provide for a minimal space between roasting and packaging in order to maximize the

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flavor of the coffee. The fact that the references do not actually show this feature merely reflect a modification of a system that is already in place.

*Carolyn Paden*

CAROLYN PADEN 1-10-03  
PRIMARY EXAMINER  
GROUP 1300 1761